UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

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WTC CAPTIVE INSURANCE COMPANY, INC.,

Plaintiff,

-against-

SUMMARY ORDER

GRANTING

PLAINTIFF'S MOTION

FOR PARTIAL

SUMMARY JUDGMENT

AND DENYING

DEFENDANTS' CROSS

MOTION FOR

SUMMARY JUDGMENT

07 Civ. 1209 (AKH)

LIBERTY MUTUAL FIRE INSURANCE COMPANY;
CERTAIN UNDERWRITERS AT LLOYD'S, AND
CERTAIN LONDON MARKET INSURANCE
COMPANIES; ASSICURAZIONI GENERALI S.P.A.; and
GENERAL SECURITY INDEMNITY COMPANY OF
ARIZONA, as attorney in fact for and successor in interest to
GENERAL SECURITY INDEMNITY COMPANY (now
known as HUDSON SPECIALTY INSURANCE
COMPANY),

Defendants.

ALVIN K. HELLERSTEIN, U.S.D.J.:

The parties appeared before me on March 19, 2008, for argument on cross-motions for partial summary judgment. For the reasons stated on the record, I make the following rulings.

- (1) Defendants Certain Underwriters at Lloyd's, London, Certain London Market Insurance Companies, Assicurazioni Generali S.p.A., and General Security Indemnity Company of Arizona (collectively the "Excess Insurers") have an on-going duty to defend the City of New York and its contractors in the personal injury cases arising out of the World Trade Center cleanup effort, consolidated under the 21 MC 100 docket number. I therefore grant the WTC Captive's motion for partial summary judgment seeking a declaration of the Excess Insurers' duty to defend;
- (2) The Excess Insurers' obligation to defend extends from the date that the underlying insurance policy issued by Liberty Mutual Fire Insurance Company was exhausted

based on the obligation of Liberty Mutual to pay in the aggregate the amounts of its policy through the present, and notice thereof;

- (3) Counsel for WTC Captive and for the Excess Insurers shall settle the amount pursuant to these rulings;
- (4) The Excess Insurers are hereby granted leave to seek recovery from any other insurance carrier, or any other appropriate relief, if discovery in the 21 MC 100 cases so indicates.

A full opinion explicating the reasons for the aforementioned rulings will follow. SO ORDERED.

Dated: March, 2003

New York, New York

ALVIN K. HELLERSTEIN United States District Judge